

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 607 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

HARUN MOHAMAD JAMSHA

Appearance:

PUBLIC PROSECUTOR for Petitioner

MR DM THAKKAR for Respondent No. 1

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 22/10/96

ORAL JUDGEMENT

The State of Gujarat through Deputy Conservator of Forests, Chhota Udepur has filed the present petition under Artilece 227 of the Constitution of India challenging the judgment and order passed by the learned Additional Sessions Judge, Chhota Udepur. By the impugned order, the learend judge set aside the order dated 26.12.1985 passed by the Deputy Conservator of Forests confiscating the truck No. GRT 4582 under

section 61(A) of Indian Forests Act, 1927.

In the instant case, the Range Forest Officer, Mobile Squad, intercepted the truck in question on 15.10.1985 near Chikhali town and found the truck loaded with wooden-logs without any valid pass or permit. The respondent who is the owner of the truck, in his statement, has stated that the wooden-log has been purchased from one Kandariya Chitiya of village Kadi-pani for Rs. 2500/. The said Kandariya in his statement has stated that these are all goods meant for supporting the roof of the house. As can be seen from the statements of all other witnesses, the wooden-logs are taken out from the debris of the house. It appears that the respondent advanced a loan of Rs 2500/ to the said Kandariya and for the purpose of repayment of the loan, the wood in question has been given to the respondent.

Mr. K.P. Raval learned APP appearing for the petitioner submitted that the wood in question is the forest wood and since the same is recovered without any pass or permit and the truck in question has been used for the purpose of transportation, the same is required to be confiscated. Now the learned Additional Sessions Judge, after considering the relevant case papers has recorded a finding that except 4 to 5 wood-logs, all other wood-logs are more than 10 years old and have been used in the house to support the roof. In view of this, there is no material on record which would go to show that the forest offence is committed with respect to the wood in question. Apart from that, in the instant case, it appears that the inquiry which is conducted by the Deputy Conservator of Forests is in violation of the principles of natural justice inasmuch as the respondent has not been given a copy of the statements of witnesses as well as the panchanama nor was afforded an opportunity to cross-examine the witnesses. It is an undisputed fact that the Deputy Conservator of Forests has relied on the statements of the witnesses and the copies thereof has not been given to the respondent. In view of this, the inquiry under section 61(A) of the Act initiated against the respondent is illegal as violative of the principles of natural justice. It is now settled principle of law that confiscation of the vehicle would be illegal and unsustainable if the value of the contraband alleged to have been carried in the vehicle is negligible compared to the value of the vehicle. In the present case, admittedly, the value of the truck is more than Rs 1 lac, whereas the wood in question carried in the truck was Rs 2500/. In view of what is discussed above, I see no merits in this petition.

In the result, this petition fails and is rejected. Rule is discharged. Interim relief stands vacated.
